

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RICHARD G. KIRBY,

Petitioner,

v.

CIV 08-886 MV/CG

JAMES JANECKA, Warden, and
GARY K. KING, Attorney General
for the State of New Mexico,

Respondents.

ORDER DENYING MOTION
WITHOUT PREJUDICE

This habeas matter is before Court *sua sponte*. Petitioner's latest motion and notices of address indicate that he has been released from prison. See Docs. 27, 31, 33. As such, he filed a motion asking the Court to dismiss Respondent Janecka. See Doc. 27. However, the case is presently on appeal to the Tenth Circuit.

Wherefore,

IT IS HEREBY ORDERED that Petitioner's motion (Doc. 27) is denied without prejudice. He may renew the motion, if necessary, pending resolution of the appeal.



UNITED STATES MAGISTRATE JUDGE